

ACCESS TO JUDICIAL REVIEW PROCEDURES IN BULGARIA

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Standing - who can bring a case to court and how

- ▶ An administrative act may be contested before the court even if the possibility for administrative contestation of the administrative act has not been exhausted.
- ▶ In administrative matters, two-instance court procedures are in place.
- ▶ Environmental cases are handled under the common administrative procedure - i.e. there are no specific court rules applicable to environmental matters.
- ▶ The Bulgarian legislation grants standing to interested persons (NGOs and physical persons) to bring to court both measures of a general nature such as protected areas management plans and normative administrative acts - secondary legislation issued by the executive authorities.

Safeguards for effective procedures

- ▶ There is no stipulated deadline for the national courts to hear a case.
- ▶ The general rule is that the court hears and rules on the case within a reasonable time limit.
- ▶ Administrative acts shall be contestable within 14 days after communication thereof. A tacit refusal or tacit consent is contestable within 1 month after expiry of the time limit within which the administrative authority is obligated to pronounce the act.

Interim measures - injunctive relief

- ▶ An appeal challenging an administrative decision has suspensive effect unless an anticipatory enforcement has been allowed by the administrative authority or by law - automatic injunctive relief.
- ▶ The deciding administrative authority can admit, with a reasoned decision, anticipatory enforcement of the act - temporary elimination of the injunctive relief.
- ▶ The defence against preliminary enforcement may be provided by means of appeal in a separate legal control procedure independently from appealing the administrative act itself. The order by which the preliminary execution is admitted or refused may be appealed through the administrative body before the court within 3 days after its announcement, regardless of whether the administrative act has been appealed. It shall not stop the admitted preliminary execution, but the court may stop it till its final decision.

Costs of litigation

- ▶ Access to justice with no financial barriers - no duties are collected and no costs are paid for any proceedings, except in the special cases provided for in the APC or in another law, as well as in the cases of judicial appeal against administrative acts and the bringing of a legal action under the APC.
- ▶ The tax for filing a cassation appeal against an administrative act by NGOs or individuals is very low - only 10 BGN (about 5 EUR).
- ▶ The tax for the cassation appeal has been increased from 5 BGN to 70 BGN for individuals, sole traders, state and municipal authorities and other persons with public functions or offering public services, and 370 BGN for organisations.
- ▶ When a material interest could be defined in the administrative court proceedings, the state tax is proportional and amounts to 0.8% of the material interest of (value for) the party, but not more than 1,700 BGN, and in the event that the interest in the case is above 10,000,000 BNG the tax is 4,500 BGN.
- ▶ The “loser pays” principle is fully applicable - where the court rejects the contestation or the appellant withdraws the appeal, the party for which the administrative act is favourable is entitled to be awarded costs.

Legal aid

- ▶ Pro bono assistance is available, with the aim to be guaranteed equal access to justice for all persons in criminal, civil and administrative cases before all court instances by ensuring and providing effective legal aid. Legal aid funds are provided from the state budget.
- ▶ Legal aid is organised by the National Legal Aid Bureau (NLAB) and by the bar association councils.
- ▶ The aid is provided for consultations for reaching an out-of-the court agreement before the start of the judicial proceedings or for submitting a case to the court, for drafting documents necessary for submitting a case and representation in court. The aid is provided e.g. to persons and families who are eligible for receiving social aid monthly allowances.
- ▶ The legal aid system covers cases where a party to an administrative case does not possess the financial means to pay the lawyer's fee, wants to have one, and it is in interest of justice.
- ▶ The national legal aid hotline is another means for providing legal aid to individuals under more relaxed conditions than the general rules. The hotline is administrated by the NLAB and aid is provided by lawyers listed at the NLAB.

***Thank you for your
attention!***

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